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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/508,900	09/23/2004	Pamela Louise Amos	40735022/535000/US	3658
2500/5	7590	03/26/2009		
Intellectual Property Dept. Dewitt Ross & Stevens SC 2 East Mifflin Street Suite 600 Madison, WI 53703-2865			EXAMINER WILSON, LEE D	
			ART UNIT 3727	PAPER NUMBER
			NOTIFICATION DATE 03/26/2009	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

doctet-ip@dewittross.com

Office Action Summary

Application No.

10/508,900

Applicant(s)

AMOS, PAMELA LOUISE

Examiner

LEE D. WILSON

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-23, 27, 28 and 30-36 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 15-23, 27-28, and 30-36 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
Paper No(s)/Mail Date ____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Previous Office Action filed on 1/12/09 has been vacated

1. Previous Office Action filed on 1/12/09 has been vacated please respond to the instant action.

Claim Rejections - 35 USC § 112

1. Claims 27 and 36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
 - a. Claims 27 and 36 recites "its" what is this term referring to and the term does not provide proper antecedent basis. The term is also indefinite.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
2. Claims 15 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Georgiou (6264755).

Georgiou teaches the claimed invention as recited in claims . Georgiou teaches an apparatus and method having spaced apart teeth (fig.1 and prongs) .

Georgiou teaches an apparatus and method having spaced apart teeth (16&30) being wedge shaped

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 16-17 and 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Georgiou (6264755) in view of Raya (2564721).

a. In regard to claims 16-17, Georgiou discloses the claimed invention except for a range .7-.9 mm apart for the teeth. The claimed range would have been obvious because "a person of ordinary skill has good reason to pursue the known options within his or her technical grasp. It this leads to the anticipated success, It is likely the product not of innovation but of ordinary skill and common sense." KSR.

b. Georgiou discloses the claimed invention except for wedge shaped teeth inclined away from a leading edge.

c. All of the claimed elements were known in the prior art as shown by Raya having a device having wedge shaped teeth (10) inclined away from a leading

edge (figs.3&4) which are used to restore materials by raking and one skilled in the art could have combined the elements claimed by known methods and with no change in their respective functions and the combination would have yielded predictable results to one of ordinary skill in the art at the time of invention

5. Claims 22-23, 27-28, and 30-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Georgiou (6264755) as applied to claims 16-17 and 19-21 above, and further in view of Skoglund (1600368), Miller (191608), and Erickson (3838474).

d. The modified Georgiou is discussed above except for an array or second line of teeth

e. All of the claimed elements were known in the prior art as shown by Skoglund (1600368), Miller (191608), and Erickson (3838474) having a device having array or second line of teeth (Fig.1 of each invention shows an second line or array of teeth and Miller shows teeth that have lines at different angles. Miller applies to claims 27-36) which are used to restore materials by raking with an array of teeth and one skilled in the art could have combined the elements claimed by known methods and with no change in their respective functions and the combination would have yielded predictable results to one of ordinary skill in the art at the time of invention. It is noted that to have an array of teeth being either two rows or more is notoriously well known and old in the art.

Response to Arguments

6. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

- b. The previous amendment have been reviewed. New rejections have been applied in view of those previous amendments. Please respond to this instant office action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEE D. WILSON whose telephone number is 571-272-4499. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MONICA CARTER can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Ldw

/LEE D WILSON/
Primary Examiner, Art Unit 3727

March 4, 2009